

INFORMATION LETTER

Not for
Publication

NATIONAL CANNERS ASSOCIATION

For Members
Only

No. 1491

Washington, D. C.

June 12, 1954

N.C.A. Research Bulletin on Water Re-use in Pea Canneries

The latest in the series of bulletins dating from the beginning of the N.C.A. Research Laboratories has appeared and copies have been mailed to Association members.

Bulletin 31-L, "Water Re-use in Canneries," by Walter A. Mercer and Charles T. Townsend of the N.C.A. Western Branch Laboratory, is subtitled "Section 1—Pea Canneries," since it is hoped that further investigations will make possible the preparation of similar sections dealing with other products. Designed to

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N.C.A. Research Laboratory Reports on Gamma Ray Studies

Findings in the N.C.A. Washington Research Laboratory's studies on "cold" sterilization by means of gamma rays were reported to the Washington Laboratory Advisory Committee at the time of the recent meeting of the Board of Directors. Cleve Denny of the Laboratory staff reviewed recent activities and plans for further work in this project.

Results thus far indicate that gamma radiation will destroy the spores of the typical canned food spoilage and food poisoning organisms. The spores of *Clostridium botulinum* are the most radiation-resistant of spores studied thus far. Spore destruction by irradiation appears

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Agriculture Committees Begin Study of New Farm Program

The Senate and House Committees on Agriculture this week began to consider in executive session what kind of farm program they will want to recommend to Congress for next year.

The Senate Committee met jointly with the Appropriations Subcommittee to hear Under Secretary True D. Morse, accompanied by other USDA officials, discuss proposed programs

for controlling production on diverted acreage.

The House Committee agreed to report to the House a bill designed to encourage sale and disposal of surplus agricultural commodities in foreign countries.

The House Committee also voted 21-8 to continue price support at 90 percent on basic crops with respect to which producers have not disappointed marketing quotas.

Working Agreement between FTC and FDA

The Secretary of the Department of Health, Education, and Welfare, Mrs. Oveta Culp Hobby, and the Chairman of the Federal Trade Commission, Edward F. Howrey, jointly announced on June 9 the approval of a working agreement between the two agencies. Its objective is to correlate more effectively the work of the Commission and the Food and Drug Administration and to prevent overlapping activities and duplication of effort.

Secretary Hobby and Chairman Howrey issued the following statement:

"The close parallel in purpose between provisions of the Federal Trade Commission Act which deal with advertising of foods, drugs, and cosmetics, and the labeling requirements of the Federal Food, Drug, and Cosmetic Act, has led to overlapping activities on the part of the two enforcement agencies. Such overlapping arose primarily because the same representations regarding a product may be both advertising and labeling, depending on the circumstances of each case. A clearly defined understanding between the two government organizations is essential to prevent needless duplication of effort. Certainly, two different agencies should not start legal proceedings against a business firm for essentially the same reason unless the public interest requires two proceedings.

"In concluding the working agreement our purpose, among other things, is to improve the liaison between the two agencies and insure a properly

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Technical Advisory Committee Holds Field Demonstration

The N.C.A. Technical Advisory Committee's subcommittee on Precision Vegetable Seeders met last week at Spring Valley, Minn., to inspect and evaluate the experimental plots of peas planted by four new types of experimental precision seeders. These experimental machines were demonstrated by the design engineers of companies manufacturing this equipment in order to allow the committee to evaluate their performance from a practical field standpoint. Experimental plantings have been made by these machines in two locations in Illinois, Wisconsin, and Minnesota this spring through the cooperation of the Technical Advisory Committee, several canners, and the engineering staffs of several manufacturers.

The committee was quite impressed with the uniformity of spacing and uniformity of "come-up" as well as the absence of "bunching" and "skips", which so often occur with present equipment.

Some of this equipment will be further tested this season on the planting of snap beans and lima beans, and members of the committee will make critical evaluations of their field performance. Studies on uniformity of maturity and yield will be made through experimental plot plantings.

The Walsh-Healey Public Contracts Act will apply to all operations performed after the date of award of a government contract for 1954 pack canned foods if the total value of a contract is \$10,000 or over. A review of the Act's application to such contracts is on page 222.

House Approves Broadening of Social Security Coverage

The House on June 1 passed and sent to the Senate H.R. 9366, a bill extending the old-age and survivors' insurance coverage of the Social Security Act, increasing the benefits, and eliminating certain requirements for eligibility.

Of principal interest to the canning industry are the following proposed new provisions of the Act.

Self-employed Farm Operators

Self-employed farmers whose net earnings from farm self-employment total \$400 or more in a year would be brought within the Act. To enable low-income farmers, who may have no income tax liability, to keep the records and to report the income necessary for the application of the tax, special provisions for a simplified reporting procedure for these individuals have been included. The House Committee on Ways and Means estimates that about 3.6 million farmers would be brought within the Act in the course of a year.

Farm Workers

About 1.3 million additional farm workers are expected to become part of the social security system by new provisions further extending the coverage in agricultural employment.

Under present law, a farm worker is covered only if he is paid at least \$50 in a quarter by a single employer and is "regularly employed" by that employer. Before the agricultural employee can meet the "regularly employed" test for coverage, he must first work for an employer continuously throughout an entire calendar quarter. He is then "regularly employed" in each succeeding quarter if he does full-time farm work for the employer on as many as 60 days in that quarter or in the preceding quarter. If during any quarter he fails to work his 60 days for the same employer, the chain is broken and he must serve another qualifying quarter before he can again be covered.

Under the new bill, a farm worker would be covered in his work for any one employer if he received cash wages of \$200 or more in the year from that employer. Farm workers' earnings would therefore be reported and taxes paid annually.

Two quarters of coverage are to be assigned to the individual for annual earnings over \$200, three quarters for annual earnings over \$300, and four quarters for annual earnings over

\$400. Thus any farm worker receiving \$200 or more from a single employer would be assured of at least two quarters of coverage for each year in which he met this requirement and would acquire insured status.

Employees of Foreign Subsidiaries of American Employers

The Social Security Act amendments of 1950 extended old-age and survivors' insurance coverage to most U. S. citizens working outside the United States for American employers. U. S. citizens employed by foreign subsidiaries of parent American companies are not, however, covered by the present law.

The new bill proposes to extend coverage to all such citizens at the option of the American parent company. If the parent company elects to extend coverage to the U. S. citizen employees of any foreign subsidiary, it must do so in respect to all such employees.

Employees Engaged in Fishing and Related Activities

Under present law, employees engaged in the catching of fish, shellfish and other aquatic species (except salmon and halibut), either from shore or as officers or crew members of vessels of 10 net tons or less, are excluded from old-age and survivors' insurance coverage. The new bill proposes to bring within the Act about 50,000 additional individuals by extending its provisions to all such employees. Self-employed owners of fishing vessels were brought within the Act by the 1950 amendments.

Average Monthly Wage

The new bill would change the method for computing the average monthly wage on which the primary insurance amount and the amount of every dependent's and survivor's benefit is based. Provision is made for the elimination of up to five years of low earnings in the computation of the average monthly wage.

Earnings Base

Under the provisions of the bill, the maximum amount of covered earnings considered for both tax and benefit purposes would be increased from \$3,600 to \$4,200 a year effective January 1, 1955. According to the House Committee, the raising of the wage base to \$4,200 would restore approximately the same relationship between general earnings levels and the maximum wage base that existed in 1951.

Increase in Benefits

The bill would provide for a general increase in old-age and survivors'

insurance benefits through the application of a revised benefit formula and increases for those beneficiaries presently covered.

Limitations on Earnings of Beneficiaries

Of particular interest to the canning industry is a proposed relaxation of the earnings limitation on individuals otherwise qualifying for benefits.

Under the present law, beneficiaries under age 75 lose their benefits during any month in which income from covered wages exceeds \$75. The new bill proposes to extend to wage earners the same privileges of seasonal or temporary employment permitted to self-employed persons. A wage earner over 65 could earn as much as \$1,000 in a year in any employment, covered or uncovered, without loss of benefits. One month's benefit would be withheld for each \$80 or fraction thereof in excess of \$1,000 earned annually, but no benefit would be suspended for any month in which the individual neither earned wages of more than \$80 nor rendered substantial services as a self-employed person.

The present retirement test applies only to earnings in work covered by the old-age and survivors' insurance system, thereby enabling individuals who work in non-covered employment to continue to draw the benefits regardless of their earnings. The bill would eliminate this anomaly by providing that earnings from any type of employment or self-employment in the United States, whether or not covered by the system, would be taken into account in determining whether or not benefits should be withheld.

Preservation of Benefit Rights for Disabled

The period during which an individual was under an extended total disability would be excluded in determining his insured status and the amount of benefits payable to him upon retirement or to his survivors in the event of his death. Only disabilities lasting more than 6 months would be taken into account. Determinations of disability would be made by state vocational rehabilitation agencies or other appropriate state agencies pursuant to agreements with the Secretary of Health, Education, and Welfare.

Tax Rates

Increases in the tax rates for the long-range funding of the social security system are provided for in the bill. Employers and employees will continue to share equally in the contributions in respect to covered wage earners, with the rates on each being as follows:

Calendar years:	Rate (percent)
1954-59	2
1960-64	2½
1965-69	3
1970-74	3½
1975 and after	4

The proposed tax schedule follows that of the present law until 1970, when the proposed increase is to be 3½ percent instead of 3¼ percent, as existing law provides.

The self-employed would pay 1½ times the above rates.

Antitrust Penalties

A subcommittee of the Senate Committee on the Judiciary has scheduled a public hearing July 2 on H.R. 2237, to increase from \$5,000 to \$50,000 the maximum penalty for violation of the Sherman Act.

H.R. 2237 was passed by the House May 5, 1953.

Census of Manufactures

The Senate on June 7 passed and cleared for the President H.R. 8487, authorizing the regular census of manufactures, to be taken in 1955 on 1954 data.

If the measure becomes law, the question of the census-taking still will depend on the action of Congress on appropriations for that purpose. The Appropriations Committees had prevented the taking of the census this year on schedule.

The Senate Appropriations Committee on June 8 reported a bill carrying \$16 million for a "full census" of agriculture this fall. The Budget Bureau, overriding Commerce Department recommendations, had requested that only a sample census be taken, and the House deleted the \$3.5 million requested for that purpose. If approved by the Senate, the \$16 million item would have to be resolved by a conference committee.

Trade Agreements Act

Chairman Reed of the House Committee on Ways and Means on June 8 introduced a bill, H.R. 9474, to extend the trade agreements program for another year beyond June 12.

The bill was reported by the Committee on June 10 and was scheduled for action by the House late yesterday, June 11.

Tariff Simplification

An Administration proposal for customs simplification was introduced in the House June 8 by Representative Byrnes (Wis.). The bill, H.R. 9476, would provide for simplification of tariff schedules and other changes in customs procedures.

The bill would direct the Tariff Commission, on the basis of a thorough study, to propose within two years a revision of the commodity classification, for the purpose of reflecting changes in the character of imports since 1930, eliminating anomalies of classification and simplifying the application of the classification schedules.

Where, in this process, a rate would be revised, either by consolidating the classification of separate commodities or by revising the form of the rate, the revised rate would have to produce the same amount of duty as the old rates, within a specified tolerance.

After the Tariff Commission had made its preliminary reclassification, public hearings would be held. At the conclusion of these hearings, the Commission would revise its recommendations and submit them to the President, who would be authorized to obtain the necessary consents to the revised rates from the countries with which the U. S. has trade agreements, and, having done so, to transmit the proposed schedules to Congress. If they were not disapproved as a unit by a constitutional majority of either house of Congress within 60 days, the President would proclaim the effectiveness of the new classification schedules.

The bill would amend or repeal out-of-date provisions in customs laws.

Mexican Farm Labor Program

The House on June 10 passed and sent to the Senate H.R. 9447, making appropriations for the Department of Labor for the fiscal year 1955.

The bill includes \$1,521,000 for the Mexican farm labor program, a reduction of \$225,000 from the request, and \$207,000 from the amount appropriated in 1954. The amount approved is the full amount requested, except that no funds are included to cover the cost of medical examinations, estimated to be \$225,000.

After the budget was prepared, the Comptroller General ruled that these costs are legal charges against the revolving fund.

Home Economics Division Advertisements

Enclosed with this issue of the INFORMATION LETTER are copies of the three spring advertisements of the N.C.A. Home Economics Division, appearing in home economics professional magazines.

The three advertisements complete a series based on the theme "the story behind modern canned foods." In March, emphasis was given the part scientific research plays in assuring canned foods of safety and quality. The April advertisement brought out the savings in cost and preparation time when canned foods are used. In May, teachers were informed of the large proportion of foods reaching tables in canned form, and were reminded of the importance of including lessons on canned foods in their courses.

All three advertisements show the supplementary educational materials that can be ordered from the Home Economics Division by filling out and mailing the coupon.

During the first four months of 1954 a total of 988,013 publications had been mailed out upon request. This is slightly under the 1,045,098 mailed out for the same period of 1953.

Fruit Cocktail to Canada

The Canadian duty on canned fruit cocktail imported from the United States and other most-favored-nations was held to be 1 cent a pound under tariff item No. 106(d), instead of 2½ cents a pound under item No. 106(a), by Canadian Tariff Board decision of April 28.

The action is reported in *Foreign Commerce Weekly*, official publication of the U. S. Commerce Department, which states further:

"However, inasmuch as decisions of the Tariff Board may be appealed to the Exchequer Court upon questions of law within 30 days from the date of decision, no consideration will be given, the government states, to refund of excess duties collected under the higher rate until the matter is finally determined.

"The Board's decision was made on an appeal from a Deputy Minister of National Revenue decision that canned fruit cocktail should be dutiable at 2½ cents a pound under tariff item No. 106(a) because peaches are the chief constituent of the mix. This higher rate has been collected since January 30, 1953."

Gamma Ray Studies

(Concluded from page 217)

analogous to that produced by heat in that equal doses of radiation destroy equal fractions of the surviving spores, so that the time required to attain sterility depends on the numbers of spores originally present.

Some of the factors that seem to influence the effect of gamma rays on spores, Mr. Denny said, are (1) oxygen concentration (oxygen is toxic to spores during irradiation); (2) temperature (low temperatures are favorable to destruction); and (3) moisture (moist spores are less resistant than dry). Neither heating spores before irradiation nor variations in the pH of the surroundings seem to intensify the effect of radiation.

Plans were ready, the Committee was told, for a large-scale experimental exposure of foods in cans. The products included were to be peas, corn, milk, chopped beef, chicken soup, and chopped mixed vegetables, all inoculated with a spore mixture of 15 strains of *Cl. botulinum*. Various cans were to be irradiated to dosages representing incomplete, borderline, and complete sterility, then incubated and observed for spoilage and quality effects. Several months will be required to complete this program, which is the final phase of active laboratory work on this project under present plans. Contact with work elsewhere will be continued, however.

The experiments are now under way.

Some preliminary experiments of the same kind have already been made by the Laboratory. Mr. Denny told the Committee, to estimate the sterilization dosage. This proved to be higher than some estimates that had been made, since $3\frac{1}{2}$ million roentgens did not suffice for complete sterilization of products inoculated with large numbers of spores. With the gamma ray sources available, this took about 10 hours. Observations on these preliminary packs indicated quality effects in some instances: milk became darker and acquired a cooked flavor, precooked beef regained a raw color, while peas turned from green to a brownish color and took on a straw-like odor.

The Committee was told of the program of research on gamma ray sterilization of foods now being organized under grants to various institutions by the Army Quartermaster Food and Container Institute. The Army program is being supervised by Dr. Bruce

Morgan, formerly of the N.C.A. Washington Laboratory staff.

As to early commercial application of this method, Mr. Denny pointed out two major obstacles to such a development: (1) "gross flavor product" sources of the high intensity needed are not now available, and nothing has been reported to indicate when they will be; and (2) information on effects of irradiation on taste, odor, nutritive value, and safety of food products, and on means of overcoming such effects if they exist, is still fragmentary.

American Weekly Magazine

Canned soup was the feature of Amy Alden's two-page food article in the May 30 issue of *American Weekly* magazine. Miss Alden titled her article "For That Extra Special Flavor—Use Soup" and said, "Use it as a seasoning! Use it as a sauce! Use it to further your reputation as an excellent cook!"

A handsome color photograph showed some of the prepared recipes attractively served. Along with the soups, canned lobster, mushrooms, chicken, pimientos, and asparagus were used in the recipes.

American Weekly is the magazine section distributed with many leading Sunday newspapers over the country. Its circulation reaches over 10 million.

Better Homes and Gardens

The theme of the food section of *Better Homes and Gardens* magazine in June is "Save Time for Summer Fun." Canned foods are used throughout the articles.

The article entitled "Minutemakers From A Package" is of particular interest. The suggested menus and recipes include many canned foods. Peaches, apricots, cream of mushroom soup, chicken-rice soup, luncheon meat, Spanish rice, consomme, tomato soup, tomato aspic, chicken, sweet potatoes, pineapple, cranberry sauce, and chow mein noodles are used.

Another article, "Fix 1-2-3-Deserts," by Myra Johnston, food editor, uses canned fruits in many of the recipes. Those featured are fruit cocktail, pineapple, and peaches. Both articles are illustrated with handsome color photographs.

Better Homes and Gardens circulation is approximately 4,000,000.

Canned Foods Turnover Cited

Country Gardens, Inc., is making good use of the Consumer and Trade Relations material now being issued in behalf of the promotion of the use of canned foods. In its house organ *The Country Gardener* this firm has picked up considerable material from the Trade Relations Bulletins that have emanated from the current promotion. For example, in the June 1 issue, quotation is made from a bulletin by a 50 million dollar super market chain in western Pennsylvania:

"Canned foods are the net profit backbone of our super markets. Because of low handling costs, no refrigeration, no high labor costs and steady demand, canned foods earn more for us in net profits than any other department. Turnover on canned foods is very high (we average upwards of 35 times a year) and I constantly stress the fact that whenever we can double our turnover, it is just like having two stores for the cost of one. I believe that with proper management it is more practical to increase turnover and net profits from canned foods than from any of our other departments."

FTC-FDA Agreement

(Concluded from page 217)

coordinated and effective law-enforcement program in the important field of foods, drugs, and cosmetics."

The agreement provides more effective liaison, particularly in instances where

"(a) The same, or similar claims are found in both labeling and advertising;

"(b) written, printed or graphic material may be construed as either advertising or as accompanying labeling or both, depending upon the circumstances of distribution;

"(c) the article is a drug or device and appears to be misbranded solely because of inadequacy of directions for use appearing in the labeling for conditions for which the article is offered in advertising generally disseminated to the public."

Liaison activity in these circumstances will be "for the purpose of avoiding duplication of work and to promote uniformity and consistency of action in areas where both agencies have a concern and the actions of one agency may affect proceedings by the other," the agreement says.

The text of the agreement is reproduced on page 221, at right.

Text of Working Agreement between FTC and FDA

The Food and Drug Administration of the Department of Health, Education, and Welfare is charged with the enforcement of the Federal Food, Drug, and Cosmetic Act. This Act makes illegal any article of food, drug, device or cosmetic that is adulterated or misbranded while introduced into or while in interstate commerce or while held for sale after shipment in interstate commerce. When the surveillance and investigative work of the Food and Drug Administration discloses a violation of the statute the facts are reported to the Department of Justice with a recommendation for seizure, criminal prosecution, or injunction actions in the federal courts. Under the provisions of the statute each of the four commodities dealt with is deemed to be misbranded "if its labeling is false or misleading in any particular." In addition to this general misbranding provision, the Federal Food, Drug, and Cosmetic Act also defines a number of other circumstances under which a food, drug, device or cosmetic shall be deemed to be misbranded—some of these definitions of misbranding being applicable solely to foods, drugs, devices or cosmetics as the case may be. Among the definitions of misbranding specific to drugs or devices is the requirement that the labeling of these articles bear (1) adequate directions for use, and (2) such adequate warnings against use in those pathological conditions or by children where its use may be dangerous to health, or against unsafe dosage or methods or duration of administration or application, in such manner and form, as are necessary for the protection of users.

The Federal Trade Commission enforces the Federal Trade Commission Act which prohibits unfair competition and unfair or deceptive acts and practices in commerce. The Wheeler-Lea Amendment to the Federal Trade Commission Act specifically declared the false advertisement of food, drugs, devices or cosmetics to be an unfair or deceptive act or practice. This amendment defined the term "false advertisement" as applied to food, drugs, devices and cosmetics as meaning an advertisement, other than labeling, which is misleading in a material respect and provides that in determining whether any advertisement is misleading, there shall be taken into account (among other things) not only representations made or suggested by statement, word, design, device, sound, or any combination thereof, but also the extent to which the advertisement fails to reveal facts material in the light of such representations or material with respect to consequences which may result from the use of the commodity.

The two agencies have a common objective of preventing deception of

the public through the misrepresentation of food, drugs, devices or cosmetics. The Food and Drug Administration strives to prevent misrepresentation of these commodities by means of false or misleading statements made in labeling or by the omission of certain required information from the labeling. The Federal Trade Commission strives to prevent the misrepresentation of these four commodities through the use of false or misleading statements in advertisements or the omission of certain necessary statements from advertising. The definition of a false advertisement of a food, drug, device or cosmetic contained in Section 15 of the Federal Trade Commission Act specifically excludes labeling. The definition of labeling in the Federal Food, Drug, and Cosmetic Act includes written, printed or graphic matter which accompanies a food, drug, device or cosmetic and by regulation this includes such matter accompanying an article while it is in interstate commerce or while held for sale after shipment or delivery in interstate commerce. Written, printed or graphic matter descriptive of a food, drug, device or cosmetic may at one time be used as advertising and at another time accompany the article and thereby become labeling.

The requirement of the Federal Food, Drug, and Cosmetic Act that drugs or devices bear adequate directions for use has been judicially interpreted as including directions for the use of the drug or device for the purposes for which it is prescribed, recommended or suggested in advertising.

While the responsibilities of the two agencies thus are closely related in many respects, significant differences in procedure and in nature and effect of sanctions are inherent in the statutes and regulations governing the two agencies. The close relationship of the objectives of the two agencies in the respects outlined herein, however, is now recognized as requiring a more effective liaison for the purpose of eliminating any duplication of effort and resulting waste.

In order to provide for exchange of complete information so that both agencies will be utilized to the maximum effectiveness in the public interest, each agency will designate a liaison officer to serve as the primary source of contact. These liaison officers will be responsible for currently informing each other of proposed proceedings within the below-described area to effectuate the purposes of this agreement.

At all times and to every extent possible each agency will furnish information to the other prior to the expenditure of time and effort for investigation or other steps preliminary

to specific regulatory action. The liaison will be directed to correlating the work of the two agencies, the elimination of duplication of effort in individual cases, promoting uniformity and consistency in handling matters throughout those areas which are of mutual interest and recommending to higher authority the adoption of policies which will further promote uniformity of actions and enforcement of law in the public interest.

It is agreed that

(1) The Federal Trade Commission has primary responsibility with respect to the regulation of the truth or falsity of all advertising (other than labeling) of foods, drugs, devices, and cosmetics. In the absence of express agreement between the two agencies to the contrary, the Commission will exercise sole jurisdiction over all matters regulating the truth or falsity of advertising of foods, drugs, devices, and cosmetics;

(2) The Food and Drug Administration has primary responsibility for preventing misbranding of foods, drugs, devices, and cosmetics shipped in interstate commerce. In the absence of express agreement between the two agencies to the contrary, the Food and Drug Administration will exercise sole jurisdiction over all matters regulating the labeling of foods, drugs, devices, and cosmetics;

(3) The initiation of proceedings involving the same parties by both agencies simultaneously shall be restricted to those highly unusual situations where it is clear that the public interest requires two separate proceedings. For the purpose of avoiding duplication of work and to promote uniformity and consistency of action in areas where both agencies have a concern and the actions of one agency may affect proceedings by the other, it is recognized that such liaison activity is required, in instances where:

(a) The same, or similar claims are found in both labeling and advertising;

(b) written, printed or graphic material may be construed as either advertising or as accompanying labeling or both, depending upon the circumstances of distribution;

(c) the article is a drug or device and appears to be misbranded solely because of inadequacy of directions for use appearing in the labeling for conditions for which the article is offered in advertising generally disseminated to the public.

Approved:

OVETA CULP HOBBY,
Secretary, Department
of Health, Education,
and Welfare

EDWARD F. HOWREY,
Chairman, Federal
Trade Commission

Review of Walsh-Healey Act Requirements

The Secretary of Labor has determined that there will be no exemption from the Walsh-Healey Public Contracts Act for contracts covering canned fruits and vegetables purchased by the armed forces during 1954. Since this will be the first year since the beginning of the Korean emergency that the Walsh-Healey Act will remain fully applicable to government purchases of canned foods, canners will find it expedient to reacquire themselves with its application to canned foods contracts, its coverage, and the labor standards it imposes.

A detailed review of the application and labor requirements of the Walsh-Healey Act was published in the INFORMATION LETTER of September 20, 1947. These requirements remain equally applicable to canned foods contracts under the procurement techniques currently being employed by the Quartermaster. In addition, a brief summary of the Act's application is provided below.

Quartermaster Procurement Procedures

Under the Quartermaster Market Center System now being employed in the procurement of canned foods, individual Market Centers publish and mail to potential suppliers in their areas "Notices of Intent to Purchase" covering purchase quantities assigned to them. Canners wishing to respond to these informal requests for bids submit quotations to the Market Center issuing the NIP, and, after evaluation of all bids submitted, awards will be made by the Market Center. When an award is made, the Walsh-Healey Act applies to all subsequent operations on the contract.

The labor standards imposed by the Walsh-Healey Act apply only to work that is performed after the date that the government contract is awarded to the canner and have no application to work performed prior to that date. Consequently, if a canner fills a contract to which the Act applies by delivering canned foods that he held in his warehouse on the day the contract was awarded, the Act will apply only to work such as labeling, handling, and shipping, performed after the contract is awarded. On the other hand, if the award is made before packing of the foods to be applied to the contract, the labor standards must be met in respect to all operations on the foods, including the canning operations.

Canners dealing with the Quartermaster should in all instances be prepared to demonstrate by code marks or production records the dates on which government contract items were packed, to avoid any difficulties as to the time when the Act became applicable.

Contracts Covered

All government purchases of canned foods are subject to the Walsh-Healey Act if the amount of the purchase contract equals or exceeds \$10,000 and the contract does not fall within certain specifically exempted classes. Contracts for less than \$10,000 are not subject to the Act.

It is the monetary amount of the individual contract award to the canner which controls. Occasionally an invitation to bid will be issued covering a variety of items totaling more than \$10,000. Awards made to different bidders for separable portions of the invitation, each amounting to less than \$10,000, will not be subject to the Act. However, when a single award to one canner is made in an amount exceeding \$10,000 on a single invitation, and for reasons of convenience several formal contracts are issued covering the award, each such contract is subject to the provisions of the Act, although each may happen to be for a sum not exceeding \$10,000.

In determining whether the contract award is for an amount equal to \$10,000, the total contract price controls. If the contract provides for a delivered price or other extras paid for by the canner, the freight, and other charges paid by the canner must be included in the contract price.

Two types of contracts entered into by canners are exempt from the Act. Agricultural commodities that are canned or processed by the original producer are exempt. Thus, where the canner actually grows the fruits and vegetables on his own farms, he need not comply with the Walsh-Healey Act labor standards in his processing or handling operations. This exemption of contract items packed by the original producer does not, however, apply to the pack of cooperative associations or corporations that process the produce of individual grower-members.

Purchases by the U. S. Department of Agriculture falling within the general scope and aims of the Agricultural Adjustment Act also are exempt. Normally purchases for the school lunch program fall within this latter category and the contract stipulations need not be included in school lunch purchase contracts.

It is possible for the Act to apply to a canner's operations even though he enters into no contract with the government, if he makes delivery direct to the government on a dealer's contract that exceeds \$10,000, whether the value of the goods delivered direct by the canner on such dealer's contract be in excess of or less than \$10,000. Canners selling to wholesalers, jobbers, or other canners who can qualify as "regular dealers" and who in turn sell the canned foods to the government without incorporation of the shipment in the dealer's regular warehouse stocks may be subject to the

Act, even though the value of the canner's shipment is less than \$10,000.

The Act's Labor Standards

The provisions of the Walsh-Healey Act are made effective by incorporating by reference or by directly writing into every covered government contract a series of stipulations which the contractor is legally bound to comply with. The labor standards so imposed on the contractor do not accord with those required of the canning industry under the federal wage-hour law.

The canner must agree to pay time and one-half to all employees performing work on the government contract who are employed in excess of 8 hours in any one day or in excess of 40 hours in any one week. These overtime requirements must be met in respect to all operations on the government contract even though the canner may be operating under the 7(b)(3), 7(c), or the "area of production" exemption of the wage-hour law as to his production for civilian consumption.

At the present time, no minimum wage requirements are imposed on the canning industry by the Walsh-Healey Act and the canner working on a government contract is required only to pay the minimum wages required by the wage-hour law.

The canner also must agree that no male persons under 16 years of age, no female persons under 18 years of age, and no convict labor will be employed in fulfilling the government contract. The principal distinction here is that the wage-hour law permits the employment of females between the ages of 16 and 18 in certain forms of cannery employment whereas the Walsh-Healey Act prohibits all females under 18 from working on the government contract.

Employees to Whom the Act Applies

Technically, the Walsh-Healey Act applies only to employees who are actually engaged in performing work on the canned foods that are to be used in fulfilling the government contract. Thus the Act has no application to custodial or maintenance employees, such as watchmen, timekeepers, firemen, repair crews, to office employees, or to employees who qualify for the executive, administrative, and professional exemption under the wage-hour law. In like manner, the Act does not apply to employees engaged in the same establishment in work on canned foods to fill commercial orders.

On the other hand, if an employee during a single week performs work both on a government contract and on ordinary commercial orders, the overtime requirements apply to that employee during the entire week, even though the employee's work on the government contract is limited to a single day or a single activity. Thus, it becomes necessary for the employer

to segregate his employees carefully as to operations on the government contracts and on the civilian production, unless he wishes to assume the Walsh-Healey Act obligations in respect to his employee force generally. When an employer fails to keep separate records for the two groups of employees from which he can prove the fact of employee segregation, it will be presumed that all of the employees were engaged in working on the government contracts.

Posting of the Stipulations and Keeping of Records

Any canner who has a government contract subject to the Act is required to post in a prominent place in his cannery a copy of the Walsh-Healey stipulations set forth in his government contract. In addition, he is required to maintain records showing the name, address, sex, and occupation of each employee covered by the contract stipulations, and if any of these employees is under 19 years of age, the date of birth of such employee must also be shown. In addition, his records must show the hours worked and the wages paid to each employee who performed any work on the government contract. If the canner's usual and customary records contain the specified information, there is no necessity for keeping special or distinct records of any kind.

Canned Peaches for VA

The Veterans Administration has invited sealed bids to furnish the following:

PEACHES—2,600 dozen No. 10 cans, yellow cling, halved, Choice (Grade B), in heavy syrup, complying with Federal Specification Z-1-191a and Amendment 1, Type 1, Style 1, 1954 crop, regular commercial labels, f.o.b. origin or destination, or equivalent in No. 2½ or No. 2 cans. Bids due under invitation No. S-517 by June 25.

Production Forecasts on Deciduous Fruits

The outlook for production of deciduous fruits in 1954 is generally good, according to the general crop report issued June 10 by the Crop Reporting Board of USDA. The report reflects conditions on June 1.

Apples—June 1 prospects for commercial apples indicate a crop above last year but below average. Practically all of the increase over last year is indicated for the eastern states where an average crop is in prospect. The central states are expecting a crop below last year and below average. The western states show about the same size crop as a year ago but considerably below average. The late

April freezes damaged the crop in Washington and Oregon.

In the New England states, the bloom was average to good but the set varies by varieties. In New York, a satisfactory set is expected. In Pennsylvania, the bloom in most areas was the heaviest in years, but the set is light on some light varieties in some localities. Some frost damage is reported in low areas. Generally, the outlook is good. In Maryland and Virginia, this is the "on-year" for Yorks and the outlook for this variety in the Appalachian area is generally good. The Washington crop was hit by low temperatures during the last week of April. The extent of the injury varies greatly from area to area. Apples in Oregon were damaged by the late freezes. In California, apples are making good development and a crop above last year is expected.

Peaches—A crop of 67,318,000 bushels is in prospect for 1954, 4 percent greater than last year and one percent above the 1943-52 average. In general, prospects are good for all regions.

New York's crop is estimated at 1,006,000 bushels, 19 percent less than a year ago. Winter injury to buds was heavy in the Hudson Valley, while poor pollination reduced the set in the Ontario area.

The North Central states expect a production of 5,844,000 bushels, 4 percent greater than last year but 20 percent smaller than average. All states except Michigan show prospects for larger crops than last year. The western states expect a crop of 42,419,000 bushels, 14 percent larger than in 1953 and 13 percent above the 10-year average. All of these states except Washington and Oregon show larger production than last year.

Peaches in California developed well during May. Oregon peaches were hard hit by the freeze of April 30. Clingstones are forecast at 25,669,000 bushels, 13 percent larger than last year. The early freestone varieties were on the market the week ending May 22, with heavy movement of early Elbertas expected to begin in late June, and regular Elbertas about July 15. The freestone crop of 12,459,000 bushels is 17 percent larger than last year.

Sweet Cherries—The sweet cherry crop is forecast at 77,680 tons, 16 percent below last year and average. Most of the decline from last year occurs in the Pacific Coast states. California is expecting a crop 30 percent below average and 22 percent below last year. The forecast in Oregon is 43 percent below the 1953 crop and 30 percent below average, while Washington is expecting a production 10 percent below last year and 19 percent below average. Michigan is expecting a crop below last year but above average.

Sour Cherries—Production of sour

cherries in the six Western states is forecast at 8,890 tons, 11 percent above last year but 27 percent below average. The forecast for the five Great Lakes states will be made as of June 15 and released June 21.

The late freezes in the Western states did not damage sour cherries as much as sweet cherries. Utah is expecting a good crop, 135 percent above the short 1953 crop. In Washington, the weather since the freeze has been favorable for development. Harvest is expected around July 25.

In New York, prospects are for a larger crop than last year. The late May freeze might have damaged the crop and a heavy June drop may develop. Sour cherries in Pennsylvania bloomed a little later than usual and prospects are generally good. Rains in Ohio during blossoming reduced the set in the commercial areas. In Michigan, the northwest area has a poor set, while in the central-western area a better but below-average set is indicated. In the southwest there is a near-average set. Cherries in the northwestern area were damaged by the low temperatures during early May. Full bloom in some orchards in that area occurred as late as the first of June. Development of the Wisconsin crop, which was damaged by late frosts, is later than usual.

Apricots—A crop of 170,100 tons is estimated for 1954, 30 percent less than last year and 23 percent below the 1943-52 average. Utah expects a crop only slightly under the average, although 6½ times last year's small crop. The crop is a near failure in the small southern area, but there is a heavy set in the main north central section.

In California, apricots made good development during May with prospective tonnage greater than forecast a month ago but still less than in 1953 and average. Harvest began the week ending May 29. Cold nights during the April 27-30 period took a heavy toll of Washington apricots, being especially severe in the Wenatchee area. Apricots in the Yakima area came through without excessive damage. The Moorpark area has a better crop than last year.

Pears—The 1954 pear crop is forecast at 29,153,000 bushels, slightly above the 1953 crop but 4 percent below average. In the Pacific Coast states, the forecast of 25,510,000 bushels is 3 percent above last year but slightly below average. Bartlett at 20,033,000 bushels are 16 percent above last year, 5 percent above average. Other pears at 5,177,000 bushels are 28 percent below last year and 21 percent below average.

California expects a Bartlett crop of 14,710,000 bushels, above both last season and average. Shedding has been heavy in nearly all districts but fruit has sized faster than last year. Other pears at 1,917,000 bushels are also indicated above last year.

Vegetables for Processing —Crop Progress

Processing crops are about a week to ten days behind normal with much of the acreage of snap beans, beets, cabbage, sweet corn, and tomatoes yet to be planted.

The Crop Reporting Board of USDA reports that frosts in May in many of the eastern and northwestern states damaged field-set tomatoes and other tender vegetable crops. The cool weather was beneficial to the development of peas but retarded the development of sweet corn, snap beans, beets, and tomatoes. Dry weather, primarily in the northern, central, and northeastern states, was alleviated by rains during the last week of May and first week of June.

Green peas still were being planted in the northern states—about a week to ten days later than normal. Growth and development of peas were good in northern, central and northeastern states because of dry cool weather. In the Northwest, the crop is developing satisfactorily. Harvest was nearing completion in California and had started on the Eastern Shore of Maryland and Virginia.

Planting of sweet corn was well under way on June 1. A considerable acreage of snap beans had been planted also, but seeding will continue into June in most areas. Transplanting of tomatoes is well along in most areas and cabbage fields are being set.

Spring-crop Spinach

The preliminary estimate of 1954-crop spinach for processing in the six late spring states is 30,840 tons, according to the Crop Reporting Board of USDA. This is 8 percent less than the 33,630 tons harvested for processing last year but is about the same as the 10-year average.

The acreage harvested for processing was less than last year because of reductions in Arkansas, Oklahoma and Washington, but average yields were as high or higher than a year ago in all states except New York and Washington.

Insect damage caused some loss of acreage in both Oklahoma and Washington. The Washington crop also was injured by frost. In New York, early June rains are expected to improve yields after two weeks of dry weather in May. Harvest in that state started the first week of June

and should be finished by the end of the month.

Following is the production in prospect on June 1, according to the June 10 report:

Seasonal Group and State	10-year ave. 1943-52 (tons)	1953 Re-vised (tons)	1954 Preliminary (tons)
Winter.....	10,440	6,800	5,800
Early spring.....	39,790	48,300	43,500
Late spring:			
Virginia.....	1,280	2,400	2,400
Maryland.....	1,330	2,500	2,700
New York.....	69,750	12,200	11,200
Arkansas.....	8,180	6,100	5,900
Oklahoma.....	9,080	9,000	8,000
Washington.....	61,280	1,430	640
Late spring, total....	630,900	33,630	30,840
Winter and spring....	641,130	88,730	80,140
Fall.....	632,740	10,390	Nov. 10
All states.....	6113,870	108,120	Nov. 10

a Four-year (1949-52) average. b Includes short-time averages for New York and Washington.

Water Re-use in Pea Canneries

(Concluded from page 217)

point the way to economy in water usage, the bulletin gives detailed suggestions for use of the counterflow principle in water re-use, and is illustrated with flow diagrams in color.

Additional copies may be obtained on request from the N.C.A. Western Branch Laboratory, 1950 Sixth St., Berkeley 2, Calif.

Citrus Fruit Production

The 1953-54 orange crop on June 1 was estimated at 126.4 million boxes, 5 percent more than the 1952-53 crop and 19 percent above average, according to the Agricultural Marketing Service of USDA.

The Florida orange crop is reported larger than indicated earlier and is now estimated at 90.7 million boxes, 4 million more than on May 1. The California crop of Valencias, which is harvested mostly in the summer and early fall, is estimated at 19.2 million boxes, 35 percent less than last season and average.

About 19 million boxes of oranges were unharvested on June 1 this year, of which 16 million were California Valencias and 3 million Florida Valencias. This compares with 30 million unharvested a year earlier, of which 25½ million were California Valencias and 4½ million Florida Valencias.

Grapefruit are estimated at 48.2 million boxes, 26 percent above last season but 6 percent below average. The Florida crop at 42 million boxes is 3 million more than estimated on May 1. About 5 million boxes remained unharvested on June 1 this year compared with 3 million unharvested on June 1 last year. Texas prospects are the most favorable since before the freeze in 1951. Texas grapefruit are estimated at 1.2 million boxes, still well below the 1942-51 average of 15.3 million boxes.

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